

§ 1-42.5. Additional ancient mineral claims extinguished in Avery County; oil, gas and mineral interests to be recorded in such county.

(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interest in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, any person having legal capacity to own land in this State, who has an unbroken chain of title of record to such surface estate of such area of land for at least 30 years and provided such surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to such surface estate as provided in the succeeding subsections of this section, subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed.

(b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interest in such area of land, the existence of which depends upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was recorded prior to such 30-year period, and such oil, gas or mineral interests are hereby declared null and void and of no effect whatever at law or in equity: Provided, however, that any such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within such 30-year period, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of such oil, gas or mineral interest and gives the book and page where recorded. Such notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein such area of land, or any part thereof lies, and in the book thereof kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant, and the name of the surface owner and also contain either such a description of the area of land involved as to make said property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. Such notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) The board of county commissioners shall publish a notice of this section within 90 days after the ratification date, and within 90 days prior to June 30, 1982. Such notice shall be published once per week for four consecutive weeks in a newspaper published in the counties of Avery, Burke, Mitchell and Watauga, or a newspaper having general circulation in those counties.

The provisions of this section shall apply to the following county: Avery. (1981, c. 329, s. 1.)